

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

JACOB ANGELO MASSEY,

Plaintiff,

v.

CHARLES DANIELS, et al.,

Defendants.

Case No. 3:24-cv-00354-ART-CLB

ORDER

Plaintiff Jacob Angelo Massey brings this civil-rights action under 42 U.S.C. § 1983 to redress constitutional violations that he claims he suffered while incarcerated at Northern Nevada Correctional Center. (ECF No. 1-1). On January 10, 2025, this Court ordered Massey to update his address by February 10, 2025. (ECF No. 11). That deadline expired without an updated address from Massey, and his mail from the Court is being returned as undeliverable. (See ECF No. 12).

I. DISCUSSION

District courts have the inherent power to control their dockets and “[i]n the exercise of that power, they may impose sanctions including, where appropriate . . . dismissal” of a case. *Thompson v. Hous. Auth. of City of Los Angeles*, 782 F.2d 829, 831 (9th Cir. 1986). A court may dismiss an action based on a party’s failure to obey a court order or comply with local rules. *See Carey v. King*, 856 F.2d 1439, 1440-41 (9th Cir. 1988) (affirming dismissal for failure to comply with local rule requiring *pro se* plaintiffs to keep court apprised of address); *Malone v. U.S. Postal Service*, 833 F.2d 128, 130 (9th Cir. 1987) (dismissal for failure to comply with court order). In determining whether to dismiss an action on one of these grounds, the Court must consider: (1) the public’s interest in expeditious resolution of litigation; (2) the Court’s need to manage its docket; (3) the risk of prejudice to the defendants; (4) the public policy favoring disposition of cases on their merits; and (5) the availability of less drastic

1 alternatives. *See In re Phenylpropanolamine Prod. Liab. Litig.*, 460 F.3d 1217,
2 1226 (9th Cir. 2006) (quoting *Malone v. U.S. Postal Serv.*, 833 F.2d 128, 130 (9th
3 Cir. 1987)).

4 The first two factors, the public's interest in expeditiously resolving this
5 litigation and the Court's interest in managing its docket, weigh in favor of
6 dismissal of Massey's claims. The third factor, risk of prejudice to defendants,
7 also weighs in favor of dismissal because a presumption of injury arises from the
8 occurrence of unreasonable delay in filing a pleading ordered by the court or
9 prosecuting an action. *See Anderson v. Air West*, 542 F.2d 522, 524 (9th Cir.
10 1976). The fourth factor—the public policy favoring disposition of cases on their
11 merits—is greatly outweighed by the factors favoring dismissal.

12 The fifth factor requires the Court to consider whether less drastic
13 alternatives can be used to correct the party's failure that brought about the
14 Court's need to consider dismissal. *See Yourish v. Cal. Amplifier*, 191 F.3d 983,
15 992 (9th Cir. 1999) (explaining that considering less drastic alternatives *before*
16 the party has disobeyed a court order does not satisfy this factor); *accord*
17 *Pagtalunan v. Galaza*, 291 F.3d 639, 643 & n.4 (9th Cir. 2002) (explaining that
18 “the persuasive force of” earlier Ninth Circuit cases that “implicitly accepted
19 pursuit of less drastic alternatives prior to disobedience of the court's order as
20 satisfying this element[,]” *i.e.*, like the “initial granting of leave to amend coupled
21 with the warning of dismissal for failure to comply[,]” have been “eroded” by
22 *Yourish*). Courts “need not exhaust every sanction short of dismissal before finally
23 dismissing a case, but must explore possible and meaningful alternatives.”
24 *Henderson v. Duncan*, 779 F.2d 1421, 1424 (9th Cir. 1986). Because this action
25 cannot realistically proceed without the ability for the Court and the defendants
26 to send Massey case-related documents, filings, and orders, the only alternative
27 is to enter a second order setting another deadline. But without an updated
28 address, the likelihood that the second order would even reach Massey is low, so

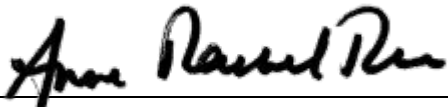
1 issuing a second order will only delay the inevitable and further squander the
2 Court's finite resources. Setting another deadline is not a meaningful alternative
3 given these circumstances. So the fifth factor favors dismissal.

4 **II. CONCLUSION**

5 Having thoroughly considered these dismissal factors, the Court finds that
6 they weigh in favor of dismissal. It is therefore ordered that this action is
7 dismissed without prejudice based on Massey's failure to file an updated address
8 in compliance with this Court's January 10, 2025, order. The Clerk of Court is
9 kindly requested to enter judgment accordingly and close this case. No other
10 documents may be filed in this now-closed case. If Massey wishes to pursue his
11 claims, he must file a complaint in a new case and provide the Court with his
12 current address.

13 It is further ordered that Massey's motion for appointment of counsel (ECF
14 No. 8) and his application to proceed *in forma pauperis* (ECF No. 4) are denied as
15 moot.

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17 DATED THIS 21st day of February 2025.

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22 ANNE R. TRAUM
23 UNITED STATES DISTRICT JUDGE
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